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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,897	06/20/2003	Scott W. Ziegler	020P0101	6794

7590 07/11/2005

Rodney F. Brown
3365 Baltimore Street
San Diego, CA 92117

EXAMINER

VU, STEPHEN A

ART UNIT PAPER NUMBER

3636

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,897

Applicant(s)

ZIEGLER, SCOTT W.

Examiner

Stephen A. Vu

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-13, 15-20 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-20 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-13 and 25-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10-13, and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Amaducci (#2,483,309).

Amaducci shows a seating unit comprising a seat (10) including a seating surface having an essentially horizontal orientation and a front side (16) having a height and a backrest assembly (12) including a support arm having a pivot end and a free end, and a back bar (63) having an external surface. The pivot end rotatably engages the seat and the free end engages the back bar. The backrest assembly has a first vertical position and a second horizontal position.

With claims 2 and 26, the support arm is a first support arm, the pivot end is a first pivot end, and the free end is a first free end. The unit further has a second support arm having a second pivot end and a second free end.

With claims 3 and 26, the second pivot end rotatably engages the seat.

With claims 4, 11-12, and 26, the seat includes a first lateral side and a second lateral side. The first pivot end rotatably engages the seat at the first lateral side and the second pivot end rotatably engages the seat at the second lateral side.

With claims 5 and 26, the seat includes a first lateral side and a second lateral side and the pivot end rotatably engages the seat at the first or second lateral side.

With claims 6 and 26, the free end rotatably engages the back bar.

With claim 7, the essentially vertical orientation of the backrest assembly has an angle of recline in a range from about 0 to 45 degrees beyond a vertical axis.

With claim 13, the back bar has a first end and a second end. The first free end of the backrest assembly rotatably engages the first end of the back bar and the second free end of the backrest assembly rotatably engages the second end of the back bar.

With claim 27, the seat has a seating surface essentially uncovered by the back bar when the backrest assembly in the second position.

Claims 1-8, 10-13, and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Hunzinger (# 584,132).

Hunzinger shows a seating unit comprising a seat including a seating surface having an essentially horizontal orientation and a front side having a height and a backrest assembly including a support arm having a pivot end and a free end, and a back bar (H) having an external surface. The pivot end rotatably engages the seat and the free end engages the back bar. The backrest assembly has a first vertical position and a second horizontal position.

With claims 2 and 26, the support arm is a first support arm, the pivot end is a first pivot end, and the free end is a first free end. The unit further has a second support arm having a second pivot end and a second free end.

With claims 3 and 26, the second pivot end rotatably engages the seat.

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With claims 4, 11-12, and 26, the seat includes a first lateral side and a second lateral side. The first pivot end rotatably engages the seat at the first lateral side and the second pivot end rotatably engages the seat at the second lateral side.

With claims 5 and 26, the seat includes a first lateral side and a second lateral side and the pivot end rotatably engages the seat at the first or second lateral side.

With claims 6 and 26, the free end rotatably engages the back bar.

With claim 7, the essentially vertical orientation of the backrest assembly has an angle of recline in a range from about 0 to 45 degrees beyond a vertical axis.

With claim 13, the back bar has a first end and a second end. The first free end of the backrest assembly rotatably engages the first end of the back bar and the second free end of the backrest assembly rotatably engages the second end of the back bar.

With claim 27, the seat has a seating surface essentially uncovered by the back bar when the backrest assembly is in the second position.

Allowable Subject Matter

Claims 15-20 are allowed.

Response to Arguments

The examiner has considered the applicant's arguments in the Amendment, filed on April 29, 2005. Based on an updated prior art search, the examiner has decided to withdraw the previous prior art rejections and address the claims with new prior art rejections. Accordingly, this Office action is considered to be Non-final.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Behrens et al, Beeman, Demick et al, Garrido et al, and Lane are cited as showing similar types of seating unit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Vu whose telephone number is 571-272-6862. The examiner can normally be reached on M-F from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stephen Vu
July 7, 2005



CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO THE COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 ON THE DATE BELOW.

April 26, 2005

DATE

Rodney F. Brown
RODNEY F. BROWN

AF
IFW
3634

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/600,897
Applicant : Scott W. Ziegler
Filed : June 20, 2003
Title : Tandem Seat for a Motorcycle Having Concealable Backrest Assembly

Art Unit : 3636
Examiner : Stephen A. Vu
Docket No. : 020P0101

MAIL STOP AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION AFTER FINAL ACTION

Sir:

A final Office Action in the above-captioned patent application has been mailed on March 23, 2005, which *inter alia* rejects claims 15 and 25. In response to the final Office Action, the examiner granted applicant's attorney a telephonic interview on April 4, 2005, to specifically discuss the rejection of claims 15 and 25. Applicant wishes to thank the examiner for his courtesy in granting the telephonic interview. The present response provides the examiner with a written summary of the issues discussed in the interview so that the examiner can more fully analyze applicant's request for reconsideration of rejected claims 15 and 25 (and correspondingly rejected dependent claims 16-18 and 27).

Distinctions Between Claim 15 and U.S. Patent 3,873,127 (McNichol, Jr. et al.)

Claim 15 has been rejected under 35 U.S.C. §102(b) as being anticipated by McNichol, Jr. et al. Claim 15 recites a driver seat segment (12) (highlighted in yellow in the appendices), a passenger seat segment (14) (highlighted in pink), and a backrest assembly (16) including a support arm (46) (highlighted in green) and a back bar (50) (highlighted in blue). The reference numbers provided in parenthesis above designate specific structural components of the embodiment shown in Figures 1 and 2 of the instant